

## Act No. 47, 1902.

CHILDREN'S  
PROTECTION.

An Act to consolidate the enactments providing  
for the protection of children in certain cases.  
[25th August, 1902.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

*Preliminary.*

Short title.

1. This Act may be cited as the "Children's Protection Act, 1902," and is divided into Parts as follows:—

PART I.—*Preliminary*—ss. 1-4.

PART II.—*Adoption of children*—ss. 5-16.

PART III.—*Lying-in homes*—ss. 17-21.

PART IV.—*Protection of children*—ss. 22-29.

PART V.—*General provisions and procedure*—ss. 30-38.

Repeal.

2. (1) The Acts mentioned in the First Schedule are, to the extent therein expressed, hereby repealed.

Saving  
proclamations, rules,  
&c., under repealed  
Acts.

(2) All proclamations made under any Act hereby repealed shall have the same force and effect as if this Act had not been passed; and all rules, regulations, registrations, and licenses made, issued, or granted under any Act hereby repealed shall have the same force and effect as if they had been made, issued, or granted under this Act.

Saving officers  
appointed under  
repealed Acts.

(3) All officers and persons appointed under the Acts hereby repealed and holding office at the passing of this Act shall be deemed to have been appointed hereunder.

Interpretation.

55 Vic. No. 30, s. 28.  
No. 52, 1900, s. 10.

3. In this Act, unless the context or subject-matter otherwise indicates or requires,—

"Chief officer" means the head of the department appointed by the Minister to administer this Act.

"Court of petty sessions" means such court held before a stipendiary or police magistrate, and not otherwise.

"Justice" means justice of the peace.

"Lying-in home" means a house in which more than one woman is received for confinement for payment of money either at the same time or within a period of two months.

"Medical practitioner" means a legally qualified medical practitioner.

"Officer"

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"Officer" includes any person acting under the instructions of the chief officer.

"Parent" when used in relation to a child, includes a step-parent, guardian, any person cohabiting with a parent of the child, and any person who is by law liable to maintain the child.

"Still-born child" means a child born dead after the commencement of the sixth month of pregnancy.

"Street" includes any highway or other public place, whether a thoroughfare or not.

4. Nothing in this Act shall apply to any public institution.

Saving.  
55 Vic. No. 30, s. 8.

## PART II.

*Adoption of children.*

5. (1) No person shall, without a written order of a justice specifying the terms on which the child may be received, receive into his care, charge, or custody any child under the age of three years to adopt, rear, nurse, or otherwise maintain, apart from its parent, in consideration of the payment to such person of any sum of money or other valuable consideration otherwise than by way of periodical instalments; and no such instalment shall be paid for more than four weeks in advance, nor exceed the sum of twenty shillings per week. Any person receiving or agreeing to receive payment for the adoption, rearing, nursing, or maintenance of any child contrary to this Act shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding one year.

Regulating adoption  
of children under  
three years.  
*Ibid.* s. 1.

Penalty.

(2) This section shall not apply to any person being the legal or natural guardian of such child; nor to the manager or officers of any institution supported wholly or in part by public subscription, or bona fide by private charity open to State inspection, or controlled by the State; nor to any person exempted for the time being from the operation of this section by the Minister.

Limitation.  
*Ibid.*

(3) The chief officer shall, if required, receive from anyone wishing to place a child in the care of such person a sum of money from which he shall make to the caretaker of such child such payments as are permitted under this Act.

Chief officer to  
receive certain  
moneys.  
*Ibid.*

(4) Every justice when giving an order under this section shall in each case report to the chief officer that he has given such order.

Justice to report to  
chief officer.  
*Ibid.*

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Registration of  
adoption of young  
children.  
55 Vic. No. 30, s. 2.

6. (1) Every person who receives into his care, charge, or custody any child under the age of three years to adopt, rear, nurse, or otherwise maintain the same for payment shall register or cause to be registered the particulars in the form specified in the Second Schedule, at the office of the district registrar of births, deaths, and marriages, appointed under the provisions of the Act No. 17, 1899, for the district in which such person then resides, within seven days from the date of such child's reception if such office is within a distance of two miles from his place of abode, or within fourteen days if such office is not within two miles as aforesaid, and such registrar shall furnish such particulars to the chief officer.

Penalty.  
*Ibid.*

(2) Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Change of address  
to be registered.  
*Ibid.* s. 3.

7. (1) No person who has in his care, charge, or custody any child registered in accordance with the provisions of this Act shall change his place of abode, or relinquish the care, charge, or custody of such child without forthwith notifying such change or relinquishment to the district registrar as aforesaid, and such registrar shall register the same in the form specified in the Third Schedule, and shall at once report such particulars to the chief officer. When such change of abode is made to a place out of the district of such registrar he shall forward a copy of such registration of removal to the registrar of the district to which the child is removed, and upon receipt of such copy the said registrar shall enter the particulars therein set forth in a book provided for that purpose.

Penalty.  
*Ibid.*

(2) Any person who fails to comply with the provisions of this section shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Inspection of  
registered children.  
*Ibid.* s. 4.

8. (1) Any child registered under this Act, and the abode and premises of any person having the care, charge, or custody thereof, may be inspected at any time by any officer, who, if he thinks fit, may be accompanied by a medical practitioner or by a police officer, or by both.

Penalty.  
*Ibid.*

(2) Any person who refuses to permit such inspection, or obstructs such officer, shall be guilty of a misdemeanour, and shall be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Neglect or  
ill-treatment of child.  
*Ibid.* s. 5.  
No. 52, 1900, s. 1.

9. Any person who wilfully and without reasonable excuse neglects to provide adequate and proper food, nursing, clothing, medical aid, or lodging for any child in his care or custody, or wilfully assaults,

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assaults, illtreats, or exposes any child, or causes or procures any child to be neglected, assaulted, illtreated, or exposed, if such neglect, assault, illtreatment, or exposure has resulted, or appears likely to result, in bodily suffering or permanent or serious injury to the health of such child, shall, on conviction before a court of petty sessions, be liable to imprisonment for a period not exceeding twelve months, or to a fine not exceeding fifty pounds.

10. (1) Every person having charge of a child registered under this Act shall, immediately after the death of any such child, if such death occurs elsewhere than in the city of Sydney, or any municipality included in the suburbs thereof, give or cause to be given notice of such death to the officer in charge of the nearest police station, and such officer shall make inquiry and report to the coroner for the district, or if the exigencies of the case so require to a justice, whether an inquest or magisterial inquiry respecting the cause of death is necessary, and in addition to such notice such person shall by registered letter report such death to the chief officer.

Notice to be given of death of child.  
55 Vic. No. 30, s. G.

(2) When the death of any such child occurs in the city of Sydney, or any municipality included in the suburbs thereof, such notice shall be given to the chief officer, who may cause an inquest to be held.

Deaths occurring in metropolitan area.  
*Ibid.*

(3) The body of a child registered under this Act shall not be buried without the production of a certificate under the hand of the coroner or the justice who held the inquiry, or of a stipendiary or police magistrate, authorising such burial, or of a medical practitioner who has attended such child during its last illness, certifying the cause of death, and also that such cause was in no way consequent on the neglect or illtreatment of such child.

Certificate required before burial.  
*Ibid.*

(4) Any person having charge of a child registered as aforesaid who neglects, refuses, or omits to give notice of the death of such child in accordance with the provisions of this section shall, on conviction before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

Penalties.  
*Ibid.*

(5) Where the death occurs at a greater distance than fifteen miles from the nearest police station, satisfactory evidence that the omission to give such notice was not the result of wilful neglect on the part of the person in charge of such registered child shall entitle such person to the dismissal of the charge.

11. (1) Every person before receiving into his care, charge, or custody two or more children under the age of three years to adopt, rear, nurse, or otherwise maintain the same for payment, shall apply to be registered as hereinafter provided.

Register of persons and houses to be kept.  
*Ibid.* s. 7.

(2) The chief officer shall, subject to regulations made under this Act, cause registers to be kept in which shall be entered the name of

Registers.  
*Ibid.*

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of any person who, being the occupier of any house, applies to have the same registered for the purposes of this Act, and the situation of such house, and such other particulars with respect to such person and such house, the calling or occupation of such person, and if a married woman, the calling or occupation of her husband, as may be directed by such regulations. Every such registration shall, unless cancelled under the provisions of this Act, remain in force until the thirty-first day of the month of December next following such registration.

Registration to be renewed.

(3) Registrations may be renewed during the month of December in each year, and all such renewed registrations shall, unless cancelled under the provisions of this Act, remain in force for one year from the expiration of such month.

No fee.

(4) No fee shall be charged or taken for the making of any registration or renewed registration under this section. The person in whose charge such register is kept shall give to the person so registering a certificate under his hand of such registration or renewal, which shall in all matters be evidence of such registration or renewal.

Penalty.  
55 Vic. No. 30, s. 7.

(5) Every person failing to comply with the provisions of this section shall, on conviction thereof before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

Chief officer may refuse to register.  
*Ibid.* s. 10.

**12.** The chief officer may refuse to register any person applying for registration under this Act, or to renew any registration unless he is satisfied by the production of certificates, or if he thinks fit to dispense with certificates, by the production of any other evidence that the person applying to be registered or for a renewal of registration is of good character and able to properly nurse and maintain any child retained in or received into his care or charge; and the chief officer may refuse to register or renew the registration of any house unless he is satisfied that such house is suitable for the purpose for which it is to be registered.

Registration may be cancelled.  
*Ibid.* s. 12.

**13.** (1) If at any time it is made to appear to the chief officer that any person registered as aforesaid has been guilty of neglect to provide, or is incapable of providing, the children received into the care or charge of such person with proper food or attention, or that the registered house of such person has become unfit for the reception of children, or if for any other reason it appears to the chief officer desirable in the public interest so to do, he may strike the name of such person and such house off the register, and the registration thereof shall be thereby cancelled. Ten days' previous notice in writing of his intention so to do shall be given by the chief officer to any such person whose name is about to be struck off the register, and such notice may be given by leaving the same at the registered house of such person, who shall be entitled to show cause why the registration should not be cancelled.

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(2) The chief officer may at the time of giving such notice order the immediate removal of such children from such registered house to the care of an officer in charge for the time being of any department or institution for the relief of State or neglected children, or in default of such an institution within a convenient distance, to the care of the police, who shall then be charged with the care of such children until their removal by their respective parents, or the return of such children to such first-mentioned registered house.

Removal of child from registered house.  
55 Vic. No. 30, s. 12.

(3) The chief officer may recover the cost of the removal, maintenance, and clothing of and medical attendance on such children from their respective parents, or (in case of the removal being confirmed) from the registered person from whose house the children have been so removed.

Maintenance of such children.  
*Ibid.*

(4) Provided that in the meantime no other child shall be received into such registered house until after the result of such notice is determined.

**14.** (1) The Governor may make regulations for all or any of the following purposes under this Act (that is to say) :—

Power to make regulations.  
*Ibid.* s. 9.

- (a) for prescribing how many registers shall be kept, and where the same shall respectively be kept ;
- (b) for prescribing the mode in which applications for registration shall be made, registration effected, and entries made in registers ;
- (c) for directing what particulars as to the persons and houses registered, in addition to those hereinbefore required, shall be inserted in such registers ;
- (d) for persons registered under section eleven to keep registers of particulars relating to children in their charge, and to provide as to the particulars to be entered, and for the production for inspection of such register ;
- (e) for arranging houses registered into classes and for fixing the maximum number of children to be retained in or received into houses of any particular class ;
- (f) for regulating the inspection from time to time of such houses and children ; and
- (g) generally for giving effect to and carrying out the provisions of this Act.

(2) Any such regulations may impose a fine not exceeding twenty-five pounds for any breach of the same, and any such penalty may be recovered before a court of petty sessions on the information of the chief officer or any officer, or of any member of the police force.

(3) All such regulations shall, within two weeks of the making thereof, be published in the Gazette, and after such publication shall come into force ; and copies of such regulations shall be furnished to persons registered under section eleven, or having the care of a child registered

Regulations to be promulgated.  
*Ibid.*

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registered under this Act, who shall, upon their receipt, be required to sign an acknowledgment for them in an official record kept for that purpose.

Act not to apply in certain cases.  
55 Vic. No. 30, s. 8.

**15.** The Minister may at any time, by writing under his hand, order that this Act shall not apply in any particular case where he is satisfied that it is undesirable or unnecessary that it should apply. Any justice may in any particular case suspend the operation of the preceding provisions of this Act for a period of eight days to enable such order to be obtained.

Forgery of certificate, &c.  
*Ibid.* s. 11.

**16.** If any person makes any false representation, or forges any certificate, or makes use of any forged certificate knowing it to be forged, with intent to obtain the registration either of such person or of any other person under this Act, or falsifies any register kept in pursuance of this Act, or furnishes false particulars of any matter which is required to be entered in such register, such person shall, on conviction thereof before a court of petty sessions, be liable to imprisonment for a period not exceeding six months, or to a fine not exceeding twenty-five pounds.

## PART III.

*Lying-in homes.*

Keepers of lying-in homes to furnish records.  
*Ibid.* s. 13.

**17.** Every person in charge of a lying-in home shall furnish records as provided in the Fourth Schedule, and forward the same to the registrar for the district in which such person resides, within a period of two weeks from the occurrence of each birth in such home; and any such person who fails to comply with the provisions herein contained, or wilfully falsifies such records, shall be guilty of a misdemeanour, and be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding twelve months.

Penalty.  
*Ibid.* s. 15.

Removal of child from lying-in home.  
*Ibid.* s. 14.

**18.** No person in charge of a lying-in home shall permit any child to be taken from such home unless in the charge of the mother of such child without first obtaining the written consent of the chief officer or a person authorised by him. Any such person who violates the provisions of this section shall be guilty of a misdemeanour, and be liable to a fine not exceeding fifty pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding six months.

Penalty.  
*Ibid.*

Registration of births by householder.  
*Ibid.*

**19.** Any person in charge of a lying-in home shall be responsible for the registration, in accordance with the provisions of the Act No.

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17, 1899, of all births occurring in such house ; and any such person who omits, neglects, or refuses to register the birth of any such child, shall be liable to the punishment provided by that Act.

20. (1) When a woman is delivered in a lying-in home of a still-born child no interment of such child shall take place without its being authorised by the certificate of a medical practitioner, or of a stipendiary or police magistrate or officer of police not under the rank of sergeant, who has made personal inquiry into the circumstances.

Still-born child not to be interred without a certificate.  
55 Vic. No. 30, s. 16.

(2) Any person interring any such still-born child without first obtaining such certificate shall be guilty of a misdemeanour, and be liable to a fine not exceeding one hundred pounds, with or without imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding twelve months.

Penalty.  
*Ibid.*

(3) But any such still-born child, born in a lying-in home situated more than fifteen miles from the nearest such practitioner, magistrate, or officer of police, may be interred without such authority, but the birth of the child so buried shall be reported within seven days from the date of the burial, by the person who interred the body, to the nearest police officer, who shall forthwith make a full inquiry into the circumstances of the case, with the view of taking further action if necessary ; and if the person who so buried the body shall fail to report as required, he shall be liable as aforesaid.

Provision for distant places.  
*Ibid.*

21. If it be made to appear to any stipendiary or police magistrate, on information laid before him on oath, that there is reason to believe that any person is offending against the provisions of this Act in any house or place, or that any of the provisions of this Act are being infringed in any house or place, such magistrate may issue his warrant authorising an officer to search any house or place therein named, at any hour of the day, or at any hour of the night not later than ten o'clock, for the purpose of ascertaining whether there is or has been therein or thereon an infringement of the provisions of this Act.

When information on oath, warrant may be issued to search premises.  
*Ibid.* s. 17.

Such officer may, if he thinks it necessary, be accompanied by a medical practitioner, or by a police officer, or by both.

PART IV.

*Protection of children.*

22. (1) Any person who causes any child under the age of fourteen years to take part in any public exhibition or performance whereby, in the opinion of a court of petty sessions, the life or limbs of such child is or are endangered, and the parent or any person having the custody of such child who aids or abets such first-mentioned person

Penalty for employment of any child in dangerous performances.  
*Ibid.* s. 18.



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person therein shall be guilty of an offence against this Act, and shall on conviction thereof before such court be liable to imprisonment for a period not exceeding twelve months, or to a fine not exceeding fifty pounds.

Compensation for  
accident to any child.  
55 Vic. No. 30, s. 18.

(2) Where in the course of a public exhibition or performance which in its nature is dangerous to the life or limb of a child under such age as aforesaid taking part therein, any accident causing actual bodily harm occurs to such child, the employer of such child, whether its parent or not, shall, on conviction before a court of petty sessions, be liable to be imprisoned for a period not exceeding twelve months, or to a fine not exceeding fifty pounds; and if such employer is not the parent of such child, the court before which such employer is convicted may award as compensation a sum not exceeding one hundred pounds, to be paid by such employer to the child or to some person named by the court on behalf of the child for the bodily harm so occasioned.

Penalty for  
procuring to solicit  
alms.  
No. 52, 1900, s. 11.

**23.** (1) Any person who—

(a) causes or procures, or having the custody or charge thereof, allows any child under the age of sixteen years to be in any place for the purpose of begging or receiving alms, or inducing the giving of alms, whether under the pretence of singing, playing, performing, offering anything for sale or otherwise; or

For procuring to  
perform under  
authorised ages.  
*Ibid.*

(b) causes or procures, or having the custody or charge thereof, allows any child, being a boy under the age of fourteen years or a girl under the age of sixteen years, to be in any place, or in any premises licensed according to law for public entertainments, for the purpose of singing, playing, or performing for profit, or offering anything for sale between ten o'clock at night and six o'clock in the morning; or

For procuring  
children under ten  
years to perform.  
*Ibid.*

(c) causes or procures, or who, having the custody or charge thereof, allows any child under the age of ten years to be at any time in any place, or in any premises licensed according to law for public entertainments, or in any circus or other place of public amusement to which the public are admitted by payment, for the purpose of singing, playing, or performing for profit, or offering anything for sale

Penalty.  
*Ibid.*

shall, upon conviction by a court of petty sessions be liable to a fine not exceeding twenty-five pounds, or to imprisonment with or without hard labour, or in the case of a female light labour, for any term not exceeding three months, or to such fine and imprisonment:

Minister may grant  
licenses.  
*Ibid.*

Provided that in the case of any entertainment or series of entertainments to take place in premises licensed according to law for public entertainments, or in any circus or other place of public amusement as aforesaid, where it is shown to the satisfaction of the Minister that proper provision has been made to secure the health and kind

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kind treatment of any children proposed to be employed thereat, the Minister may, notwithstanding anything in this Act, grant a license for such time and during such hours and subject to such restrictions and conditions as he may think fit, for any child exceeding seven years of age, of whose fitness to take part in such entertainment or series of entertainments without injury the Minister is satisfied, to take part in such entertainment or series of entertainments, and such license may at any time be varied, added to, or rescinded by the said Minister upon sufficient cause being shown; and such license shall be sufficient protection to all persons acting under or in accordance with the same.

(2) The Minister may appoint any person to see that the restrictions and conditions of any license under this section are duly complied with; and such person shall have power to enter, inspect, and examine any place of public entertainment at which the employment of a child is for the time being licensed under this section.

(3) This section shall not apply in the case of any occasional entertainment, the proceeds of which are wholly applied for the benefit of any school or to any charitable object.

Entertainments for charitable objects exempt.  
No. 52, 1900, s. 11.

**24.** For the purposes of the last preceding section any person who is the parent of a child, or any person to whose charge a child is committed by its parent, or any person having actual possession or control of a child, shall be deemed to have the custody or charge thereof.

Custody or charge defined.  
*Ibid.* s. 12.

**25.** Any constable or any officer appointed under this Act may take any child in respect of whom there is reason to believe that an offence under this Act has been committed to a place of safety, and a child so taken to a place of safety and also any child who seeks refuge in a place of safety, may be there detained until the child can be brought before a court of summary jurisdiction.

Removal of child to a place of safety.  
55 Vic. No. 30, s. 19.  
No. 52, 1900, s. 3.

**26.** Where it appears to a court of petty sessions or any justice that an offence under this Act has been committed in the case of any child brought before such court or justice, and that the health or safety of the child will be endangered unless an order is made under this section, the court or justice may, without prejudice to any power under this Act, make such order as circumstances require for the care and detention of the child until a reasonable time has elapsed for the bringing and disposing of any charge against the person who it appears has committed the offence; and an order under this section may be enforced, notwithstanding that any person claims the custody of the child.

Orders for care of child pending trial of offender.  
55 Vic. No. 30, s. 19.  
No. 52, 1900, s. 4.

**27.** (1) Any constable may take into custody without warrant any person who commits, or who is reasonably suspected by such constable to have committed, an offence under this Act, if the name and residence of such person are unknown to such constable and cannot be ascertained by him.

Arrests without warrant.  
55 Vic. No. 30, s. 19.  
No. 52, 1900, s. 2.

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Provision for bail.

55 Vic. No. 30, s. 19.

(2) Where such an arrest is made, the inspector or constable in charge of the station to which such person is conveyed shall, unless in his belief the release of such person on bail would tend to defeat the ends of justice, or to cause injury or danger to the child in respect of whom the offence is alleged to have been committed, release the person arrested on his entering into such a recognizance, with or without sureties, as may in his judgment be required to secure the attendance of such person upon the hearing of the charge.

Disposal of child by court.

*Ibid.* s. 19.

28. Whenever steps have been taken under any of the last three preceding sections of this Act to secure the safety or well-being of a child, and the person charged with committing an offence in respect of such child has been convicted, such child may be disposed of as the court so convicting may direct.

Committal of children to relations and others.

*Ibid.* s. 20.

No. 52, 1900, s. 5.

29. (1) Where a person having the custody or control of a child, being a boy under the age of fourteen, or a girl under the age of sixteen years has been—

- (a) convicted of committing in respect of such child an offence under section nine of this Act, or any offence involving bodily injury to the child and punishable with penal servitude; or
- (b) committed for trial for any such offence; or
- (c) bound over to keep the peace towards such child,

any person may apply to a court of petty sessions, or to the court before which the person having such custody has been so convicted, committed, or bound over, for an order as hereinafter mentioned, and the court, if satisfied on inquiry that it is expedient so to deal with the child, may, whether the child is brought before the court or not, order that it be taken out of the custody of such person, and committed to the charge of a relation or some other fit person named by the court, such relation or other person being willing to undertake such charge until it attains the age of fourteen years, or in the case of a girl sixteen years, or in either case for any shorter period, and may of its own motion, or on the application of any person, from time to time renew, vary, and revoke any such order.

Control of child so committed.

55 Vic. No. 30, s. 20.

(2) Any person to whom a child is so committed shall, whilst the order is in force, have the like control over the child as if he were its parent, and shall be responsible for its maintenance, and the child shall continue under the control of such person, notwithstanding that it is claimed by its parent.

Maintenance of child.

*Ibid.*

(3) Any court having power so to commit a child shall have power to order the parent of the child to contribute to its maintenance during such period as aforesaid, and to enforce such order in like manner as any order of a court of petty sessions is enforceable under the Acts relating to summary convictions and orders made by justices, and such orders may be made on the complaint or application of

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of the person to whom the child is for the time being committed, and the sums contributed by the parent shall be paid to such person as the court may name, and be applied for the maintenance of the child.

(4) In determining on the person to whom the child shall be so committed, the court shall endeavour to ascertain the religious persuasion to which the child belongs, and shall, if possible select a person of the same religious persuasion, and such religious persuasion shall be specified in the order; and in any case where the child has been placed pursuant to any such order with a person not of the same religious persuasion as that to which the child belongs, the court shall, on the application of any person in that behalf, and on its appearing that a fit person of the same religious persuasion is willing to undertake the charge, make an order to secure his being placed with a person of the same religious persuasion.

Religion of child.  
55 Vic. No. 30, s. 20.

(5) Provided that if the order to commit the child to the charge of some relation or other person is made in respect of any person having been committed for trial for an offence, as specified in subsection (1) (b) of this section, the court shall not be empowered to order the parent of the child to contribute to its maintenance prior to the trial of such person; and if he is acquitted of such charge, or if such charge is dismissed for want of prosecution, then any order that may have been made under this section shall forthwith be void, except with regard to anything which may have been lawfully done under it.

Proviso as to  
maintenance.  
*Ibid*

(6) The Minister may at any time in his discretion discharge a child from the custody of any person to whom it is committed in pursuance of this section, either absolutely or upon conditions, and may make rules in relation to children so committed to any person, and to the duties of such persons with respect to such children.

Minister may change  
custody of child.  
*Ibid.*

## PART V.

*General provisions and procedure.*

30. Where a child is brought before a court of petty sessions under circumstances authorising the court under the provisions of this Act to deal with the child under the State Children Relief Act, 1901, or the Reformatory and Industrial Schools Act, 1901, the court, if it thinks fit, in lieu of ordering the child to be boarded out, or to be sent to an industrial school, may make an order under the preceding section of this Act for the committal of the child to the care of a relation or person named by the court as therein provided.

Court may commit  
child to relatives in  
place of industrial  
schools.  
No. 52, 1900, s. 5.

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Magistrate may order child to be delivered to home or institution.  
55 Vic. No. 30, s. 21.

**31.** Any stipendiary or police magistrate, in lieu of committing to prison any child under the age of fourteen years, convicted before him of any offence, may hand over such child to the charge of any home for destitute and neglected children, or industrial institution; and the managers of such home or institution may permit its adoption by a suitable person, or may apprentice it to any suitable trade, calling, or service, and the transfer shall be as valid as if the managers were the parents of such child. The parents of such child shall have no right to remove or interfere with the said child so adopted or apprenticed, except by the express permission in writing of the Minister.

Children may be dealt with under Industrial Schools Acts.  
No. 52, 1900, s. 6.

**32.** Where a court has power under this Act to commit a child to the custody of any relation or person named by the court until it, being a boy, attains the age of fourteen years, or, being a girl, attains the age of sixteen years, or where a child is brought before a court, having been found in any street, premises, or place, for a purpose forbidden by this Act, whether or not any person is charged with an offence in respect of the child, the court may, if it thinks fit, order the child to be committed to the control of the State Children Relief Board under the provisions of the State Children Relief Act, 1901, or to be dealt with under the Reformatory and Industrial Schools Act, 1901, in like manner as if it had been found wandering, and not having any proper guardianship.

Power of search and arrest, and to place child in safety.  
55 Vic. No. 30, s. 22.  
No. 52, 1900, s. 7.

**33.** (1) Whenever it appears to any stipendiary or police magistrate, or to any justice, on information made before him on oath by any person who, in the opinion of the magistrate or justice, is bona fide acting in the interest of any child, that there is reasonable cause to suspect that such child, being a boy under the age of fourteen years, or a girl under the age of sixteen years, has been or is being illtreated or neglected in a manner likely to cause the child unnecessary suffering, or to be injurious to its health, such magistrate or justice may issue a warrant authorising any officer or police officer named therein to search for such child; and if it is found to have been or is then being illtreated or neglected in manner aforesaid, to take it to and detain it in a place of safety until it can be brought before a court of petty sessions; and the court before whom the child is brought may cause it to be dealt with in the manner provided by section twenty-nine.

Apprehension of offender.  
55 Vic. No. 30, s. 22.

(2) The magistrate or justice issuing such warrant may, by the same warrant, cause any person accused of any offence in respect of the child to be apprehended, and proceedings to be taken for punishing such person according to law.

Power to enter buildings, &c.  
*Ibid.*

(3) Any person authorised by warrant under this section to search for any child, and to take it to and detain it in a place of safety, may enter (if need be by force) any house, building, or other place specified in the warrant, and may remove the child therefrom.

(4)

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(4) Every warrant issued under this section shall be addressed to and executed by some superintendent, inspector, or other superior officer of police, or to an officer who shall be accompanied by the person giving the information, if such person so desire, unless the magistrate or justice otherwise directs; and the person to whom the warrant is addressed may be accompanied by a medical practitioner.

Execution of warrant.  
55 Vic. No. 30, s. 22.

(5) It shall not be necessary in any information or warrant issued under this section to name any particular child.

Child need not be named.  
No. 52, 1900, s. 7.

34. (1) Where a person is charged with committing an offence under this Act in respect of two or more children the same information or summons may charge the offence in respect of all or any of them, but the person charged shall not be liable to a separate penalty in respect of each child unless upon separate informations or summonses.

Information or summons.  
*Ibid.* s. 8.

(2) The same information or summons may also charge the offences of assault, illtreatment, neglect, abandonment or exposure, together or separately, but when charged together the person charged shall not be liable to separate penalties.

(3) Where an offence charged is a continuous offence, it shall not be necessary to specify in the information or summons the date of the acts constituting the offence.

35. (1) Where in any proceeding against any person for an offence under this Act the child in respect of whom the offence is charged to have been committed, or any other child of tender years who is tendered as a witness, does not in the opinion of the court understand the nature of an oath, the evidence of such child may be received though not given upon oath if in the opinion of the court such child is possessed of sufficient intelligence to justify the reception of the evidence, and understands the duty of speaking the truth. And the evidence of such child, though not given on oath, but otherwise taken and reduced into writing as a deposition, shall be deemed to be a deposition to all intents and purposes.

Evidence in certain cases.  
Child of tender years.  
55 Vic. No. 30, s. 24.

A person shall not be convicted of the offence charged unless the testimony admitted by virtue of this section, and given on behalf of the prosecution, is corroborated by some other material evidence in support thereof implicating the accused.

Any child whose evidence is received as aforesaid, and who wilfully gives false evidence, shall be guilty of a misdemeanour, but no prosecution shall be instituted under this section without the leave of the court before which such evidence was given.

(2) Where a justice is satisfied by the evidence of a medical practitioner that the attendance before a court of any child in respect of whom an offence under this Act is alleged to have been committed would be injurious or dangerous to its health, the justice may take in writing

Child who could not be brought to court without endangering health.  
No. 52, 1900, s. 9.

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writing the statement of such child in pursuance of section four hundred and six of the Crimes Act, 1900, as if the child were dangerously ill, and in the opinion of the medical practitioner, not likely to recover.

No. 52, 1900, s. 9.

(3) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance before the court of any child in respect of whom an offence is alleged to have been committed would be injurious or dangerous to its health, any deposition taken under section four hundred and six of the Crimes Act, 1900, or any statement of the child taken under this section, may be read in evidence, and shall have effect in like manner as if it were proved that the child were so ill as to be unable to travel, or (in the case of any such statement) that there was no reasonable probability that the child would ever be able to travel or give evidence; but the same provisoes shall apply as in the case of the reception of evidence under the first subsection.

*Ibid.*

(4) Where in any proceedings with relation to an offence under this Act the court is satisfied by the evidence of a medical practitioner that the attendance before the court of any child in respect of whom the offence is alleged to have been committed would be injurious or dangerous to its health, and is further satisfied that the evidence of the child is not essential to the first hearing of the case, the case may be proceeded with and determined in the absence of the child.

Presumption of age of child.  
55 Vic. No. 30, s. 25.

36. Where a person is charged with an offence under this Act in respect of a child who is alleged in the charge or indictment to be under any specified age, and the child appears to the court to be under that age, such child shall, for the purposes of this Act, be deemed to be under that age unless the contrary is proved.

Saving parental right of punishment.  
*Ibid.* s. 26.

37. Nothing in this Act contained shall be construed to take away or affect the right of any parent, teacher, or other person having the lawful control or charge of a child to administer punishment to such child.

A person not to be twice punished for the same offence.  
*Ibid.* s. 27.

38. Where a person is charged with an offence under this Act, for which he is also punishable under any other Act or at Common Law, he may be prosecuted and punished either under this Act or under any other Act, or at Common Law, but no person shall be punished twice for the same offence.

SCHEDULES.

Section 2.

FIRST SCHEDULE.

Reference to Act.	Title or short title.	Extent of repeal.
55 Vic. No. 30 ...	Children's Protection Act, 1892 ...	The whole.
52, 1900 ...	Children's Protection Act Amendment Act, 1900 ...	The whole.

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SECOND SCHEDULE.

Section 6.

No.	District	Date.
Name of child—		
Sex—		
Date of birth—		
Place of birth (full particulars)—		
Office at which birth was registered—		
Name, address, and occupation of person from whom child was received—		
Name of custodian receiving child—		
Name and address of justice of peace granting order—		
Occupation—		
Address at which child will be kept—		
Rate of periodical payment—		
If custodian has any children of his or her own, state ages and sexes—		
If in charge of any other registered children, state names, ages, and sexes—		
Date upon which child was received by custodian—		
Signature of person registering—		

(*Signature of registrar.*)

THIRD SCHEDULE.

Section 7.

No.	District	Date.	
Change of custody or address of registered child, No.		Vol.	Folio
Name of child—			
Name of present custodian—			
Name of proposed custodian—			
Address of proposed custodian—			
In the district of—			
<i>Or</i>			
Address to which the present custodian is about to remove—			
In the district of—			
Date of proposed change of custody or address—			
Name of person notifying change of custody or address—			
Address of same—			
Signature of same—			

(*Signature of registrar for district of* .)

FOURTH SCHEDULE.

Section 17.

No.	District	Date.
Address of lying-in home—		
Name of keeper of lying-in home—		
Name of woman—		
Age—		
Date of woman's admission—		
Date of confinement—		
Name of medical attendant or midwife—		

(*Signature of registrar for district of* .)